

Social Security Administration

§416.1471

selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Appeals Council's action.* If the Appeals Council decides to review a decision or dismissal on its own motion, it will mail a notice of review to all the parties as provided in §416.1473. The Appeals Council will include with that notice a copy of any written referral it has received under paragraph (c) of this section. The Appeals Council's decision to review a case is established by its issuance of the notice of review. If it is unable to decide within the applicable 60-day period whether to review a decision or dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to §§416.1487 and 416.1488. If the Appeals Council decides to review a decision on its own motion or to reopen a decision as provided in §§416.1487 and 416.1488, the notice of review or the notice of reopening issued by the Appeals Council will advise, where appropriate, that interim benefits will be payable if a final decision has not been issued within 110 days after the date of the decision that is reviewed or reopened, and that any interim benefits paid will not be considered overpayments unless the benefits are fraudulently obtained.

[63 FR 36571, July 7, 1998]

§416.1470 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence; or

(4) There is a broad policy or procedural issue that may affect the general public interest.

(b) In reviewing decisions based on an application for benefits, if new and material evidence is submitted, the Ap-

peals Council shall consider the additional evidence only where it relates to the period on or before the date of the administrative law judge hearing decision. In reviewing decisions other than those based on an application for benefits, the Appeals Council shall evaluate the entire record including any new and material evidence submitted. It will then review the case if it finds that the administrative law judge's action, findings, or conclusion is contrary to the weight of the evidence currently of record.

[45 FR 52096, Aug. 5, 1980, as amended at 52 FR 4004, Feb. 9, 1987]

§416.1471 Dismissal by Appeals Council.

The Appeals Council will dismiss your request for review if you did not file your request within the stated period of time and the time for filing has not been extended. The Appeals Council may also dismiss any proceedings before it if—

(a) You and any other party to the proceedings files a written request for dismissal; or

(b) You die, there are no other parties, and we have no information to show that you may have a survivor who may be paid benefits due to you under §416.542(b) and who wishes to pursue the request for review, or that you authorized interim assistance reimbursement to a State pursuant to section 1631(g) of the Act. The Appeals Council, however, will vacate a dismissal of the request for review if, within 60 days after the date of the dismissal:

(1) A person claiming to be your survivor, who may be paid benefits due to you under §416.542(b), submits a written request for review, and shows that a decision on the issues that were to be considered on review may adversely affect him or her; or

(2) We receive information showing that you authorized interim assistance reimbursement to a State pursuant to section 1631(g) of the Act.

[45 FR 52096, Aug. 5, 1980, as amended at 58 FR 52914, Oct. 13, 1993]